

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:
Michael GABRIEL et al.

For: MEDIA CONTENT SEARCHING AND
NOTIFICATION

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APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37

SIR:

On June 17, 2009, Appellants submitted a Notice of Appeal from the last decision of the Examiner contained in the Final Office Action dated March 17, 2009 in the above-identified patent application.

In accordance with 37 C.F.R. § 41.37, this brief is submitted in support of the appeal of the final rejections of claims 1 to 27, and 29. For at least the reasons set forth below, the final rejections of claims 1 to 27, and 29 should be reversed.

1. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Home Box Office, Inc. of New York, New York, United States of America, which is the assignee of the entire right, title and interest in the present application.

2. RELATED APPEALS AND INTERFERENCES

There are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, Inc., "which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal."

3. STATUS OF CLAIMS

Claims 28 and 30 have been canceled.

Claims 1 to 25, and 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent Application Publication No. 2003/0208767 (“Williamson et al.”) and U.S. Patent Application Publication No. 2004/0003097 (“Willis et al.”).

Claim 26 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Williamson et al., Willis et al., and U.S. Patent Application Publication No. 2002/0154157 (“Sherr et al.”).

Claim 29 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Williamson et al., Willis et al., and U.S. Patent Application Publication No. 2002/0078382 (“Sheikh”).

Appellants appeal from the final rejections of claims 1 to 27, and 29.

A copy of the appealed claims, *i.e.*, claims 1 to 27, and 29, is attached hereto in the Claims Appendix.

4. STATUS OF AMENDMENTS

In response to the Final Office Action dated March 17, 2009, Appellants submitted a “Reply Under 37 C.F.R. § 1.116” on May 15, 2009. The Reply included proposed amendments to claims 1, 16, 26, 27, and 29, and canceled claim 30. The Advisory Action dated May 21, 2009 indicates that the proposed claim amendments would be entered. As such, it is Appellants’ understanding that the proposed claim amendments have been entered, and the claims as included in the annexed “Claims Appendix” reflect entry of the proposed claim amendments.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 relates to a computer-implemented method for searching for media content. *Specification*, p. 3, ll. 34 to 35. The method includes receiving, by a processor and from a user, a user profile 200 which identifies preferred media distribution sources. *Specification*, p. 4, ll. 22 to 30; p. 5, ll. 1 to 5; p. 9, ll. 27 to 31; and Figures 1 and 2. The method includes receiving, by the processor, a search request 300 from a user including at least one search criteria. *Specification*, p. 5, ll. 26 to 34; p. 9, ll. 31 to 34; and Figures 1 and 3. The method includes searching, by a processor, a plurality of media distribution source types for media content based on the at least one search criteria and the user profile 200. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The method includes generating, by the processor and from results of the searching, a schedule 470 including scheduling information regarding the media content. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The method includes displaying the schedule 470 to the user. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 16 relates to a computer-implemented method for providing a user with information regarding media content. *Specification*, p. 3, ll. 34 to 35. The method includes determining, by a processor, an availability of media content from a plurality of media distribution sources that are selected in accordance with at least one user selection interpreted based on a user profile 200, the plurality of media distribution sources including different types of media distribution sources. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The method includes generating, by the processor and based on the determination, a schedule 470 including scheduling information regarding the availability of the media content from the plurality of media distribution sources. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The method includes displaying the schedule 470 on a single page. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 18 relates to a system. *Specification*, p. 3, ll. 34 to 35; p. 10, ll. 28 to 29; and Figure 5. The system includes a processor 550. *Specification*, p. 10, ll. 28 to 31; and Figure 5. The system includes at least one computing arrangement 540 configured to communicate with the processor 550 via a communications network 510. *Specification*, p. 10, ll. 29 to 33; and Figure 5. The system includes a hardware-implemented computer-readable storing medium storing a set of instructions, the set of instructions capable of being executed by the processor 550 to implement a method for searching for media

content. *Specification*, p. 11, ll. 4 to 6. The set of instructions perform the step of receiving from a user a user profile 200 which identifies preferred media distribution sources. *Specification*, p. 4, ll. 22 to 30; p. 5, ll. 1 to 5; p. 9, ll. 27 to 31; and Figures 1 and 2. The set of instructions perform the step of receiving a search request 300 from a user including at least one search criteria. *Specification*, p. 5, ll. 26 to 34; p. 9, ll. 31 to 34; and Figures 1 and 3. The set of instructions perform the step of searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile 200. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The set of instructions perform the step of generating, from results of the searching, a schedule 470 including scheduling information regarding the media content. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The set of instructions perform the step of displaying the schedule 470 to the user. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 19 relates to a hardware-implemented apparatus. *Specification*, p. 3, ll. 34 to 35; p. 10, ll. 28 to 29; and Figure 5. The apparatus includes a means for processing 550. *Specification*, p. 10, ll. 28 to 31; and Figure 5. The apparatus includes a means for communicating 510. *Specification*, p. 10, ll. 32 to 33; and Figure 5. The apparatus includes a means for computing 540 to communicate with the means for processing 550 via the means for communicating 510. *Specification*, p. 10, ll. 29 to 33; and Figure 5. The apparatus includes a means for storing, the means for storing storing a set of instructions executable by the means for processing 550, the set of instructions, when executed, causing the means for processing 550 to implement a method for searching for media content. *Specification*, p. 11, ll. 4 to 6. The set of instructions perform the step of receiving from a user a user profile 200 which identifies preferred media distribution sources. *Specification*, p. 4, ll. 22 to 30; p. 5, ll. 1 to 5; p. 9, ll. 27 to 31; and Figures 1 and 2. The set of instructions perform the step of receiving a search request 300 from a user including at least one search criteria. *Specification*, p. 5, ll. 26 to 34; p. 9, ll. 31 to 34; and Figures 1 and 3. The set of instructions perform the step of searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile 200. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The set of instructions perform the step of generating, from results of the searching, a schedule 470 including scheduling information regarding the media content. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The set of instructions perform the step of

displaying the schedule 470 to the user. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 26 relates to a computer-implemented method for searching for media content. *Specification*, p. 3, ll. 34 to 35. The method includes receiving, by a processor and from a user, a user profile 200 which identifies preferred media distribution sources. *Specification*, p. 4, ll. 22 to 30; p. 5, ll. 1 to 5; p. 9, ll. 27 to 31; and Figures 1 and 2. The method includes receiving, by the processor, a search request 300 from a user including at least one search criteria. *Specification*, p. 5, ll. 26 to 34; p. 9, ll. 31 to 34; and Figures 1 and 3. The method includes searching, by a processor, a plurality of media distribution source types for media content based on the at least one search criteria and the user profile 200. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The method includes generating, by the processor and from results of the searching, a results page 470. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The results page includes a first section 475, 476 having generic information of the results that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types. *Specification*, p. 6, ll. 24 to 26; and Figure 4c. The results page includes for each of the media distribution source types from which the results were obtained, a respective second section 480, 485, 489 having information specific to the respective media distribution source type, including all of the results obtained from the respective media distribution source type. *Specification*, p. 6, l. 26 to p. 7, l. 3; and Figure 4c. The method includes displaying the results page 470. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 27 relates to a computer-implemented method for searching for media content. *Specification*, p. 3, ll. 34 to 35. The method includes responsive to a request for media content suggestions, periodically: searching, by a processor, for media content of a plurality of media distribution source types, the searching being in accordance with a user viewing history, *Specification*, p. 9, ll. 8 to 16, and displaying results 470 of the search. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

Independent claim 29 relates to a computer-implemented method for searching for media content. *Specification*, p. 3, ll. 34 to 35. The method includes receiving, by a processor and from a user, a user profile 200 which identifies preferred media distribution sources which are of a plurality of media distribution source types. *Specification*, p. 4, ll. 22 to 30; p. 5, ll. 1 to 5; p. 9, ll. 27 to 31; and Figures 1 and 2. The method includes receiving, by the processor, a search request 300 from a user including at least one search criteria.

Specification, p. 5, ll. 26 to 34; p. 9, ll. 31 to 34; and Figures 1 and 3. The method includes searching, by a processor, the preferred media distribution sources for media content based on the at least one search criteria and the user profile 200, where the searching includes searching based on the identification of the preferred media distribution sources of the user profile 200. *Specification*, p. 6, ll. 9 to 14; p. 9, l. 34 to p. 10, l. 3; and Figure 1. The method includes, if the searching returns results, generating, by the processor and from the results of the searching, a schedule 470 including scheduling information regarding the media content of the returned results. *Specification*, p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The method includes, if the searching returns results, displaying the schedule 470 to the user. *Specification*, p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c. The method includes, if the searching does not return any results, periodically searching, by the processor, the plurality of media distribution source types for media content, the periodic searching being unconstrained by at least one of the at least one search criteria, the user profile 200, and the identification of the preferred media distribution sources of the user profile 200. *Specification*, p. 8, ll. 31 to 32. The method includes, if the searching does not return any results, responsive to a return of results by the periodic searching, generating, by the processor and from the results of the periodic searching, the schedule 470. *Specification*, p. 9, ll. 1 to 3; p. 6, l. 17 to p. 7, l. 3; p. 10, ll. 17 to 22; and Figures 1 and 4c. The method includes, if the searching does not return any results, responsive to a return of results by the periodic searching, displaying the schedule 470 to the user. *Specification*, p. 9, ll. 1 to 3; p. 6, ll. 17 to 22; p. 10, ll. 17 to 22; and Figures 1 and 4c.

6. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL

- A. Whether claims 1 to 25, and 27, which stand rejected under 35 U.S.C. § 103(a), are patentable over the combination of Williamson et al. and Willis et al.
- B. Whether claim 26, which stands rejected under 35 U.S.C. § 103(a), is patentable over the combination of Williamson et al., Willis et al., and Sherr et al.
- C. Whether claim 29, which stands rejected under 35 U.S.C. § 103(a), is patentable over the combination of Williamson et al., Willis et al., and Sheikh.

7. **ARGUMENTS**

A. **Rejection of Claims 1 to 25, and 27 Under 35 U.S.C. § 103(a)**

Claims 1 to 25, and 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Williamson et al. and Willis et al. It is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1 to 25, and 27 for at least the following reasons.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied.

First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1741.

Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986).

Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As explained herein, the Examiner has not satisfied these requirements as to all of the features of the claims.

i. **Claims 1 to 7, 9 to 15, 18 to 22, and 24**

Claims 1, 18, and 19 essentially recite, *inter alia*, the following:

. . . receiving . . . a user profile which identifies preferred media distribution sources . . . searching . . . a plurality of media distribution source types for media content based on the at least one search criteria and the user profile . . . generating, . . . from results of the searching, a schedule including scheduling information regarding the media content; and displaying the schedule to the user.

Thus, claims 1, 18, and 19 provide novel and counter-intuitive features in which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, it is noted, often are scheduled in different manners. For example, movie theatre schedules include gaps as compared to TV program schedules which are, for the most part, continuous. Neither Williamson et al. nor Willis et al., whether considered alone or in combination, disclose or suggest these features including generating a schedule as provided for in the context of claims 1, 18, and 19.

In the Final Office Action, the Examiner admits that Williamson et al. do not disclose searching a plurality of media distribution source types for media content based on search criteria and a user profile, and instead refers to Willis et al. as assertedly disclosing searching for content from a plurality of media distribution source types.

Willis et al. provide a portal type system in which user preferences are used for filtering articles from different sources. The articles are provided to the user in a portal setting in which the different article categories are presented in different frames. In order to perform the filtering, a content generator generates for each obtained article a new version including searchable metadata. Subsequently, a content based router 130 filters the articles in accordance with user preferences and accordingly displays the articles in the portal. *See* Willis et al., e.g., pars. 0085 – 0096. Willis et al. do not disclose or suggest **generating a schedule** based on the filtered articles. Further, Willis et al. do not disclose providing its portal information **responsive to search criteria**. Instead, obtained articles are sorted based on a set of user preferences. The different articles are determined to be relevant based on different ones of the set of preferences and are provided without regard to particular search criteria.

With respect to the feature of providing a schedule, the Examiner appears to rely on Williamson et al. as assertedly disclosing this feature. However, as the Examiner admits and as noted above, a schedule provided by Williamson et al. is not of results of a

search of a plurality of media distribution source types. Even if the system of Williamson et al. would be modified based on the features of Willis et al. of providing a portal page including data from multiple distribution sources, such a modified system would not provide the features of generating a schedule from results of searching a plurality of media distribution source types, in which the schedule includes scheduling information regarding the media content from the plurality of media distribution source types, as provided for in claims 1, 18, and 19. Instead, the modified system would at most provide a portal in which obtained articles, one of which may include a television program schedule, are filtered in accordance with user preferences and then provided to the user in portal frames in accordance with the information category to which the obtained articles belong. That is, the modified system may merely include a conventional television program schedule among the portal frames, but would not include a schedule including scheduling information from the plurality of media distribution source types.

In the Final Office Action, on pages 6 and 7, the Examiner states that “the features upon which applicant relies (i.e., schedules include gaps ... [and] portal information responsive to search criteria ...) are not recited in the rejected claim(s)” (emphasis in original). However, Appellants do not argue that these are terms of the claims not disclosed in the cited references. Instead, the fact that movie theater “schedules include gaps” is stated merely as an example of significant differences between different distribution source types that have caused those of ordinary skill in the art to fail to recognize the features which are recited in the claims, i.e., generation and display of a composite schedule for the different source types. That is, it had never occurred to anyone that a schedule should be provided with information for different source types, one of the reasons being that it is understood that scheduling concepts vary between source types.

Further, “portal information” is referred to merely with respect to the disclosure of Willis et al. – that is, the portal information of Willis et al. would not suggest a composite schedule as provided for in the present claims. Accordingly, the terms themselves, “schedules include gaps” or “portal information,” are not being relied upon by Appellants as terms of the claims to overcome the present rejections.

Indeed, the applied references do not include any suggestion to further modify the systems of Williamson et al. and Willis et al. to provide the features of claims 1, 18, and 19 according to which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, as noted above, often are scheduled in different manners. Therefore, one of

ordinary skill in the art would not arrive at the features of any of claims 1, 18, and 19 based on the combination of Williamson et al. and Willis et al. without an improper hindsight reconstruction based on Appellants' disclosure.

Accordingly, the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1, 18, and 19.

As for claims 2 to 7, 9 to 15, 20, and 24, which ultimately depend from claim 1 and therefore include all of the features recited in claim 1, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

As for claim 21, which depends from claim 18 and therefore includes all of the features recited in claim 18, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 18. *In re Fine, supra*.

As for claim 22, which depends from claim 19 and therefore includes all of the features recited in claim 19, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 19. *In re Fine, id*.

Reversal of this obviousness rejection as applied to claims 1 to 7, 9 to 15, 18 to 22, and 24 is therefore requested.

ii. Claim 8

Claim 8 depends from claim 1 and is therefore allowable for at least the same reasons as claim 1. *In re Fine, id*.

Moreover, claim 8 recites that "the plurality of media distribution source types includes at least two of: i) a movie theater source type, ii) a local cable TV or satellite TV provider source type, and iii) a preferred online retailer source type." As explained above, the Examiner admits that Williamson et al. do not disclose searching a plurality of media distribution source types for media content based on search criteria and a user profile. Further, Willis et al. merely indicate providing information in separate portal frames, but do not disclose a generating a schedule including scheduling information regarding the media content from the plurality of media distribution source types. Thus, the combination of Williamson et al. and Willis et al. does not disclose that the plurality of media distribution

source types, from which scheduling information is used to generate a schedule, includes at least two of a movie theater source type, a local cable TV or satellite TV provider source type, and a preferred online retailer source type. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 8, and therefore does not render unpatentable claim 8 for this additional reason.

Reversal of this obviousness rejection as applied to claim 8 is therefore requested.

iii. Claim 23

Claim 23 depends from claim 1 and is therefore allowable for at least the same reasons as claim 1. *In re Fine, supra*.

Moreover, claim 23 recites “generating . . . an intermediate results page including a plurality of media content titles . . . wherein the schedule is generated responsive to a selection of one of the titles of the intermediate results page and includes scheduling information exclusively regarding the selected title and pertaining to multiple ones of the plurality of media distribution source types.” None of the cited sections (or any other section) of Williamson et al. or Willis et al. discloses or suggests a schedule including scheduling information exclusively regarding a selected title. Further, claim 23 recites that the schedule includes scheduling information pertaining to multiple ones of the plurality of media distribution source types. The cited references do not disclose scheduling information regarding a selected title that pertains to multiple media distribution source types. Instead, the selection of a selected title in Williamson et al. or Willis et al. limits the choices to a single selected media distribution source type. For these additional reasons, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 23, and therefore does not render unpatentable claim 23 for these additional reasons.

The Examiner attempts to show how the cited references disclose these features of claim 23 by taking features of the references presented in various contexts and combining them in the very specific sequence provided for in claim 23. This is akin to a painter who dumps different colored paints into a pot, without more, and hopes to cause a beautiful painting to miraculously form therefrom. Claim 23 provides a very specific sequence for processing a search request, which includes a two-step results presentation. The cited references do not disclose or suggest such a method of processing a search request. Indeed, the relied upon features of Willis et al. are not provided in response to a search

request, and Williamson et al. merely suggest providing a schedule, without an intermediate results page.

Reversal of this obviousness rejection as applied to claim 23 is therefore requested.

iv. Claim 25

Claim 25 depends from claim 1 and is therefore allowable for at least the same reasons as claim 1. *In re Fine, supra*.

Moreover, claim 25 recites that “the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources.” In the Final Office Action, the Examiner refers to pars. 0084 and 0102 of Williamson et al. as assertedly disclosing this feature. As previously stated, the cited sections of Williamson et al. are unrelated to preferred media distribution sources. Indeed, in the Response to Arguments section of the Final Office Action at pages 12 to 13, the Examiner does not address the feature of identifying respective preferred media distribution sources for each of a plurality of source types. Moreover, the Examiner apparently intends to refer to currently broadcast and upcoming programs as disclosing a plurality of source types. However, the cited sections of Williamson et al. do not disclose identification of respective preferred distribution sources for the currently broadcast programs and upcoming programs. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 25, and therefore does not render unpatentable claim 25 for this additional reason.

Reversal of this obviousness rejection as applied to claim 25 is therefore requested.

v. Claims 16 and 17

Claim 16 includes subject matter analogous to that of claims 1, 18, and 19 and is therefore patentable for at least the same reasons set forth above in support of the patentability of claims 1, 18, and 19.

As for claim 17, which depends from claim 16 and therefore includes all of the features recited in claim 16, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 16. *In re Fine, supra*.

Accordingly, the combination of Williamson et al. and Willis et al. does not render unpatentable claim 16 or its dependent claim 17.

Reversal of this obviousness rejection as applied to claims 16 and 17 is therefore requested.

vi. Claim 27

Claim 27 relates to a computer-implemented method for searching for media content and recites, *inter alia*, the following:

... responsive to a request for media content suggestions, periodically: searching by a processor for media content of a plurality of media distribution source types, the searching being in accordance with a user viewing history.

In the Final Office Action, the Examiner refers to par. 0084 of Williamson et al. as assertedly disclosing a viewing history. However, the cited section refers to categorization of a user's reserved programs and is unrelated to a viewing history. Indeed, the cited section merely seeks to aid a user in locating programs based on categories. Thus, Williamson et al. do not disclose or suggest a user viewing history, as provided for in the context of claim 27.

Accordingly, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 27, so that the combination of Williamson et al. and Willis et al. does not render unpatentable claim 27.

Reversal of this obviousness rejection as applied to claim 27 is therefore requested.

B. Rejection of Claim 26 Under 35 U.S.C. § 103(a)

Claim 26 stands rejected under 35 U.S.C. § 103 as unpatentable over the combination of Williamson et al., Willis et al., and Sherr et al. It is respectfully submitted that the combination of Williamson et al., Willis et al., and Sherr et al. does not render unpatentable the present claim for at least the following reasons.

Claim 26 relates to a computer-implemented method for searching for media content and recites, *inter alia*, the following:

... generating, ... from results of the searching, a results page including: a first section having generic information of the results that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types; and for each of the media distribution source types from which the results

were obtained, a respective second section having information specific to the respective media distribution source type, including all of the results obtained from the respective media distribution source type.

In the Final Office Action, the Examiner refers to sections 820, 825, 830, 835, 840, and 850 of figure 8 of Willis et al. as assertedly disclosing the recited first section. However, the referenced sections are discrete sections, each one including information specific to its respective source. The combination of the sections thus does not include information generic to all of the media distribution source types and does include information specific to each separate media distribution source type. Thus, the referenced sections, whether viewed alone or in combination, do not disclose a section having generic information that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types, as provided for in the context of claim 26.

Indeed, in the Final Office Action at page 46, the Examiner admits that “Williamson in view of Willis does not explicitly teach the limitation: ‘a first [*sic*] section having generic information of the results that applies to all of the media distribution source types from which the results are obtained and not including information that is specific to any one of the media distribution source types.’”

The Examiner refers to figure 9 and par. 94 of Sherr et al. as assertedly disclosing the recited first section. However, Sherr et al. merely indicate a page containing focused information about a single content item (movie) from a single media distribution source. *See* Sherr et al., par. 92. Further, Figure 9 of Sherr et al. contains additional information specific to the single content item from the single media distribution source. *See* Sherr et al., par. 93. Thus, the referenced sections, whether viewed alone or in combination, do not disclose a section having generic information that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types, as provided for in the context of claim 26.

Further, the Examiner refers to section 810 of figure 8 of Willis et al. as assertedly disclosing the recited second section. However, Appellants fail to understand how the cited section is considered to constitute a second section, for each media distribution source type, including all the results from the respective media distribution source type. Instead, Willis et al. merely indicate a single central location for a highest ranking article, but nowhere do Willis et al. disclose providing all the results from each respective media

distribution source type in a second section for each media distribution source type. Thus, Willis et al. do not disclose or suggest, for each of the media distribution source types from which the results were obtained, a respective second section having all of the results obtained from the respective media distribution source type, as provided for in the context of claim 26.

Indeed, it is respectfully submitted that the combination of Williamson et al., Willis et al., and Sherr et al. does not disclose or suggest these features, so that the combination of Williamson et al., Willis et al., and Sherr et al. does not render unpatentable claim 26.

Reversal of this rejection is therefore respectfully requested.

C. Rejection of Claim 29 Under 35 U.S.C. § 103(a)

Claim 29 stands rejected under 35 U.S.C. § 103 as unpatentable over the combination of Williamson et al., Willis et al., and Sheikh. It is respectfully submitted that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for at least the following reasons.

Claim 29 includes subject matter analogous to that of claim 1. Claim 29 is therefore allowable for at least essentially the same reasons as claim 1, since Sheikh does not correct the critical deficiencies of the combination of Williamson et al. and Willis et al. noted above in support of the patentability of claim 1.

Furthermore, claim 29 relates to a method for searching for media content and recites, *inter alia*, the following:

*... if the searching [based on the at least one search criteria and the user profile including based on the identification of the preferred media distribution sources of the user profile] returns results:
generating, ... from the results of the searching, a schedule including scheduling information regarding the media content of the returned results; and
displaying the schedule to the user; and
if the searching does not return any results:
periodically searching ... the plurality of media distribution source types for media content, the periodic searching being unconstrained by at least one of the at least one search criteria, the user profile, and the identification of the preferred media distribution sources of the user profile ...*

Thus, claim 29 provides for repeating a search using different criteria if the search initially does not return results. The Examiner refers to par. 0053 of Sheikh as assertedly disclosing the feature of “if the searching does not return any results: periodically searching the plurality of . . . types for media content, the periodic searching being

unconstrained” However, Sheikh merely indicates that, if no result is returned, a sensor is *re-executed*. Sheikh does not refer to the use of different criteria for repeating a search. For this additional reason, the combination of Williamson et al., Willis et al., and Sheikh does not disclose or suggest all of the features of claim 29, so that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for this additional reason.

Reversal of this rejection is therefore respectfully requested.

8. CLAIMS APPENDIX

A “Claims Appendix” is attached hereto and appears on the pages labeled “Claims Appendix 1” to “Claims Appendix 7.”

9. EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellants in the appeal. An “Evidence Appendix” is nevertheless attached hereto.

10. RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2, “[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, Inc., ‘which may be related to, directly affect or be directly affected by or have a bearing on the Board’s decision in the pending appeal.’” As such, there are no “decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]” to be submitted. A “Related Proceedings Appendix” is nevertheless attached hereto.

11. CONCLUSION

For at least the reasons indicated above, Appellants respectfully submit that the art of record does not disclose or suggest the subject matter as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the subject matter recited in the claims of the present application is new, non-obvious and useful.

In view of all of the foregoing, reversal of the rejections of claims 1 to 27, and 29 set forth in the Final Office Action is therefore respectfully requested.

Respectfully submitted,

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CLAIMS APPENDIX

1. A computer-implemented method for searching for media content, comprising:
receiving, by a processor and from a user, a user profile which identifies preferred media distribution sources;
receiving, by the processor, a search request from a user including at least one search criteria;
searching, by a processor, a plurality of media distribution source types for media content based on the at least one search criteria and the user profile;
generating, by the processor and from results of the searching, a schedule including scheduling information regarding the media content; and
displaying the schedule to the user.

2. The method of claim 1, wherein the media content includes at least one of a video, audio, a still image, printed material, text, a movie, and a television program.

3. The method of claim 1, wherein the information regarding the media content includes availability information that indicates availability of media content, which meets the at least one search criteria, from at least one of the preferred media distribution sources.

4. The method of claim 3, wherein the availability information includes at least two of movie theater show time data, television broadcast data, and retail data.

5. The method of claim 1, wherein the search for media content is performed on at least one database.

6. The method of claim 1, wherein the user profile includes at least one of a zip code and a television provider data.

7. The method of claim 1, further comprising:
providing online purchase capabilities such that the user is able to purchase at least one of the media content, tickets to view or hear the media content, and merchandise related to the media content.

8. The method of claim 1, wherein the plurality of media distribution source types includes at least two of: i) a movie theater source type, ii) a local cable TV or satellite TV provider source type, and iii) a preferred online retailer source type.

9. The method of claim 1, wherein the search criteria includes at least one of title data, cast member data, and director data.

10. The method of claim 1, wherein the information regarding the media content is displayed on at least one of: i) a display associated with a set-top box, ii) a display of a computer arrangement, a TV, a wireless device, and a cell phone.

11. The method of claim 3, further comprising:
notifying the user in the future when the media content becomes available from at least one of the preferred media distribution sources, if the media content is not currently available from the at least one of the preferred media distribution sources.

12. The method of claim 9, further comprising:
notifying the user in the future when the media content becomes available from at least one non-preferred media distribution source.

13. The method of claim 9, wherein the user is notified via at least one of email, instant message, and postal mail.

14. The method of claim 3, further comprising:
periodically searching for the availability information related to at least one of the preferred media distribution sources if the media content is not currently available from the at least one of the preferred media distribution sources.

15. The method of claim 3, further comprising:
requesting a user notification of when the media content becomes available from at least one preferred media distribution source, if the media content is not currently available from the at least one preferred media distribution source.

16. A computer-implemented method for providing a user with information regarding media content, comprising:

determining, by a processor, an availability of the media content from a plurality of media distribution sources that are selected in accordance with at least one user selection interpreted based on a user profile, the plurality of media distribution sources including different types of media distribution sources;

generating, by the processor and based on the determination, a schedule including scheduling information regarding the availability of the media content from the plurality of media distribution sources; and

displaying the schedule on a single page.

17. The method according to claim 16, further comprising:

allowing a user to request, from the single page, notification in the future when the media content becomes available from at least one of the media distribution sources, if the media content is not currently available from the at least one of the media distribution sources.

18. A system comprising:

a processor;

at least one computing arrangement configured to communicate with the processor via a communications network; and

a hardware-implemented computer-readable storing medium storing a set of instructions, the set of instructions capable of being executed by the processor to implement a method for searching for media content, the set of instructions performing the steps of:

receiving from a user a user profile which identifies preferred media distribution sources;

receiving a search request from a user including at least one search criteria;

searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile;

generating, from results of the searching, a schedule including scheduling information regarding the media content; and

displaying the schedule to the user.

19. A hardware-implemented apparatus comprising:
means for processing;
means for communicating;
means for computing to communicate with the means for processing via the means for communicating; and
means for storing, the means for storing storing a set of instructions executable by the means for processing, the set of instructions, when executed, causing the means for processing to implement a method for searching for media content, the set of instructions performing the steps of:
receiving from a user a user profile which identifies preferred media distribution sources;
receiving a search request from a user including at least one search criteria;
searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile;
generating, from results of the searching, a schedule including scheduling information regarding the media content; and
displaying the schedule to the user.

20. The method of claim 1, further comprising:
interpreting at least a portion of the at least one search criteria in accordance with the user profile;
wherein the searching is based, at least in part on the interpreting.

21. The system of claim 18, wherein:
the set of instructions performs the step of interpreting at least a portion of the at least one search criteria in accordance with the user profile; and
the searching is based, at least in part on the interpreting.

22. The method of claim 19, wherein:
the set of instructions performs the step of interpreting at least a portion of the at least one search criteria in accordance with the user profile; and
the searching is based, at least in part on the interpreting.

23. The method of claim 1, further comprising:

generating from the results of the searching an intermediate results page including a plurality of media content titles of the results;

wherein the schedule is generated responsive to a selection of one of the titles of the intermediate results page and includes scheduling information exclusively regarding the selected title and pertaining to multiple ones of the plurality of media distribution source types.

24. The method of claim 1, wherein the searching is exclusively within content provided by the preferred media distribution sources and is for media content that satisfies the search criteria.

25. The method of claim 1, wherein:

the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources;

the search criteria includes a selection of a subset of the source types; and

responsive to the search request, the searching is performed exclusively within content provided by the preferred media distribution sources of the selected subset of the source types.

26. A computer-implemented method for searching for media content, comprising:
receiving, by a processor and from a user, a user profile which identifies preferred media distribution sources;
receiving, by the processor, a search request from a user including at least one search criteria;
searching, by a processor, a plurality of media distribution source types for media content based on the at least one search criteria and the user profile;
generating, by the processor and from results of the searching, a results page including:
a first section having generic information of the results that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types; and
for each of the media distribution source types from which the results were obtained, a respective second section having information specific to the respective media distribution source type, including all of the results obtained from the respective media distribution source type; and
displaying the results page.

27. A computer-implemented method for searching for media content, comprising:
responsive to a request for media content suggestions, periodically:
searching, by a processor, for media content of a plurality of media distribution source types, the searching being in accordance with a user viewing history; and
displaying results of the search.

29. A computer-implemented method for searching for media content, comprising:

- receiving, by a processor and from a user, a user profile which identifies preferred media distribution sources which are of a plurality of media distribution source types;
- receiving, by the processor, a search request from a user including at least one search criteria;
- searching, by a processor, the preferred media distribution sources for media content based on the at least one search criteria and the user profile, wherein the searching includes searching based on the identification of the preferred media distribution sources of the user profile;
- if the searching returns results:
 - generating, by the processor and from the results of the searching, a schedule including scheduling information regarding the media content of the returned results;
 - and
 - displaying the schedule to the user; and
- if the searching does not return any results:
 - periodically searching, by the processor, the plurality of media distribution source types for media content, the periodic searching being unconstrained by at least one of the at least one search criteria, the user profile, and the identification of the preferred media distribution sources of the user profile; and
 - responsive to a return of results by the periodic searching:
 - generating, by the processor and from the results of the periodic searching, the schedule; and
 - displaying the schedule to the user.

EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§1.130, 1.131, or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellants in the appeal.

RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2 of this Appeal Brief, “[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, Inc., ‘which may be related to, directly affect or be directly affected by or have a bearing on the Board’s decision in the pending appeal.’” As such, there no “decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]” to be submitted.